

Before the
Federal Communications Commission
Washington, D.C. 20554

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DISPATCHED BY

CI Docket No. 95-55

In the Matter of

Amendment of the Commission's
Rules Concerning the Inspection
of Radio Installations on Large
Cargo and Small Passenger Ships

NOTICE OF INQUIRY

Adopted: April 24, 1995;

Released: May 16, 1995

Comment Date: July 18, 1995

Reply Comment Date: August 17, 1995

By the Commission:

I. INTRODUCTION

1. In this Notice of Inquiry (Notice), we begin a proceeding to review the Commission's current Rules regarding the inspection of ships for compliance with the Communications Act of 1934 (Communications Act) and the International Convention for the Safety of Life at Sea, 1974 (Safety Convention).¹ We seek information that will allow us to streamline ship inspection procedures for the maritime services, remove unnecessary rules, improve service to the maritime community, and, above all else, preserve maritime safety. This Notice is a companion item to our proposal to allow vessel operators on the Great Lakes subject to the annual inspection requirements of the Agreement between the United States and Canada for the Promo-

tion of Safety on the Great Lakes by Means of Radio (Great Lakes Agreement)² to have the inspection performed by a classification society instead of by Commission staff.³

2. The Commission has proposed two marine related amendments to the Communications Act. The first amendment allows early implementation of the Global Maritime Distress and Safety System (GMDSS). The second proposal will permit changes to the way we inspect large cargo vessels⁴ and small passenger vessels.⁵ This Notice is the initial step to develop and implement an overall strategy to improve the manner in which we conduct inspections without derogating the safety of life at sea.

II. BACKGROUND

3. The maritime community has pioneered the use of radio for safety purposes.⁶ The classic example is the sinking of the Titanic in 1912 which ultimately lead to the adoption of the first International Convention for the Safety of Life at Sea, 1929 (Safety Convention)⁷ and to the present requirements in the Communications Act for some U. S. ships, "compulsory ships," to carry a manual Morse code radiotelegraph installation.⁸ Although there have been many changes in maritime communications and operating practices, the general procedure that Commission inspectors use to test manual Morse code equipment remains largely the same as it was in 1934.

4. In 1988, the Safety Convention was amended to incorporate the equipment and principles of the GMDSS.⁹ The amendments incorporated advanced automated terrestrial data systems, as well as satellite communications systems, and changed the distress alerting system from primarily ship-to-ship, to primarily ship-to-shore.¹⁰ The GMDSS amendments entered into effect in 1992 and are to be phased in with full implementation in 1999.¹¹

5. The Communications Act requires that the Commission must inspect the radio installation of large cargo ships and certain passenger ships of the United States at least once a year to ensure that the radio installation is in compliance with requirements of the Communications Act.¹² Additionally, the Communications Act requires that the Commission must inspect the radio installation of small passenger vessels as necessary to insure compliance

¹ See Regulation 7 and 9 of the Safety Convention, 32 U.S.T. 47, T.I.A.S. 9700, and Sections 362 and 385 of the Communications Act, 47 U.S.C. §§ 360, 385.

² Agreement Between Canada and the United States for the Promotion of Safety on the Great Lakes by Means of Radio, T.I.A.S. 7837, amended T.I.A.S. 9352.

³ See Notice of Proposed Rule Making, CI Docket No. _____, FCC Rcd _____.

⁴ All cargo vessels over 300 gross tons and all passenger vessels that carry more than 12 passengers on an international voyage are required to carry a radio installation. See Regulation 1, Chapter IV, Safety Convention.

⁵ The Communications Act exempts small passenger vessels operated on domestic voyages from certain of the radio equipment carriage requirements. There are, generally, no large U.S. passenger vessels operated on international voyages. See Section 352(b)(3) of the Communications Act, 47 U.S.C. § 352(b)(3), and, Sections 382-386 of the Communications Act, 47 U.S.C. §§ 382, 386.

⁶ In 1906 the first international radiotelegraphy conference was held. Four years later, the Wireless Ship Act of 1910 was adopted giving the Secretary of Commerce and Labor the power

to make regulations to require wireless equipment on passenger vessels. Pub. L. No. 262, 36 Stat. 629 (1910).

⁷ Current 1974 Convention, entered into force May 25, 1980, 32 U.S.T. 47, T.I.A.S. 9700, superseded 1960 and 1948 Conventions.

⁸ See Sections 351-364 of the Communications Act, 47 U.S.C. §§ 351-362, for a description of compulsory equipment.

⁹ See Final Acts of the Conference of Contracting Governments to the International Convention for the Safety of Life at Sea, 1974, on the Global Maritime Distress and Safety System, adopted November 9, 1988.

¹⁰ For further information, see Notice of Proposed Rule Making, PR Docket 90-480, Sections III and IV, 7 FCC Rcd 6212-6213 (1992).

¹¹ On February 1, 1995, the most recent waypoint for the GMDSS amendments, all newly constructed ships are required to install equipment that meets the requirements of the Safety Convention. Until the Communications Act is amended, United States ships constructed after this date are required to install both a manual Morse code installation and the GMDSS equipment. See Section 351 of the Communications Act, 47 U.S.C. § 351, and Regulation 1, Chapter IV of the Safety Convention.

¹² 47 U.S.C. § 360(b).

with the radio installation requirements of the Communications Act. Currently, the Commission inspects small passenger ships once every five years.¹³

6. The Commission inspects approximately 580 large cargo ships subject to the Communications Act or the Safety Convention each year and approximately 600 small passenger vessels that are subject only to the Communications Act.¹⁴ Together with the Great Lakes Agreement vessels, the Commission inspects approximately 1600 ships a year.¹⁵ Currently, inspectors in port offices of the Commission's Compliance and Information Bureau (CIB) inspect all U.S. ships that request an inspection. Because of the requirement that inspections have to be conducted by the Commission, CIB has hired part-time ship inspectors in remote areas such as Guam. CIB estimates the total annual personnel required to inspect all ships, including Great Lakes Agreement vessels, to be 15.5 full time employees.¹⁶

7. The International Convention for the Safety of Life at Sea, 1974 (Safety Convention) to which the United States is signatory and which applies to large cargo ships and certain passenger vessels, also requires an annual inspection. The Safety Convention, however, permits an Administration to entrust the inspections to either surveyors nominated for the purpose or to organizations recognized by it.¹⁷ The Commission has recommended that the Communications Act be amended to permit the use of an entity designated by the Commission to conduct ship inspections.¹⁸ Such a statutory change would permit better service to ships located in remote areas or in ports where there is not a Commission office and would bring the Communications Act into conformance with the Safety Convention.

8. Amending the Communications Act will eliminate our unnecessary requirement that only Commission employees conduct radio inspections, free resources currently used to inspect ship radio stations and bring the flexibility of using the American Bureau of Shipping (ABS) or other classification societies to conduct ship radio inspections. Currently, because of budget concerns the Commission can schedule inspections in remote areas or at ports where there is no Commission office only infrequently. While this statutory proposal is pending, we are initiating this Notice to explore methods of streamlining the ship inspection program within the provisions of the current statute.

III. DISCUSSION

9. Commission inspectors currently conduct a thorough inspection of all of a ship's required radio equipment, from simple VHF marine transmitters to complex satellite transmitting and receiving equipment. Inspectors are primarily responsible for ensuring that the radio transmitting and receiving equipment provides safety communications capability at the time of inspection. It is the ship operator's responsibility to ensure that the vessel is capable of providing safety communications at all other times.¹⁹ The Commission recognizes the importance of ensuring safety of life and property at sea. In 1990, we incorporated the GMDSS amendments to the Safety Convention in Part 80 of our Rules, 47 C.F.R. Part 80, to implement an internationally approved safety system.²⁰ We have worked in conjunction with the United States Coast Guard on a recommendation to Congress that the United States amend the Communications Act to incorporate the GMDSS to replace the outdated manual Morse code radiotelegraph requirements.

10. We are conducting an inquiry into whether the policies and procedures that the Commission uses to inspect and verify that a radio installation on a U. S. vessel is properly installed and functions as intended during a distress can be simplified and streamlined. For example, an inspection of a large cargo vessel can take up to 6 hours, not including travel time, and is often highly complex. Commission inspectors note anecdotally, however, that the ship's captain often reports that the only time that one component, the medium frequency radiotelegraph installation, is used is during the annual FCC inspection.²¹

11. Although the inspections the Commission currently conducts for large cargo vessels are complex, the inspections required in the GMDSS may not be quite as complicated because much of the equipment will incorporate self-test features. Further, many of the inspections the Commission conducts for small passenger vessels are relatively simple and generally take no more than an hour to complete. All of the inspections are conducted to ensure that ships have a reliable means of distress communications in an emergency.²²

¹³ 47 U.S.C. § 385, 47 C.F.R. § 80.903.

¹⁴ A ship is a passenger vessel if it carries more than 12 passengers and navigates on voyages in the open sea. A cargo vessel is any vessel that is not a passenger vessel. See Section 3(w) of the Communications Act, 47 U.S.C. § 153(w).

¹⁵ In a companion item the Commission is proposing to use private sector inspectors for the Great Lakes Agreement vessels it inspects. See Notice of Proposed Rule Making, CI Docket No. 95-55, FCC Rcd.

¹⁶ FOB Enforcement Division Plan for fiscal year 1995.

¹⁷ The inspection and survey of ships, so far as regards the enforcement of the provisions of the present Regulations and the granting of exemptions therefrom, shall be carried out by officers of the country may entrust the inspection and survey either to surveyors nominated for the purpose or to organizations recognized by it. Regulation 6(a), Chapter I, Safety Convention.

¹⁸ For example, a classification society such as the American Bureau of Shipping (ABS). Classification societies are, generally, nongovernment organizations that conduct inspections on behalf of an administration. There are more than 40 Classification societies worldwide that inspect passenger and cargo vessels for

compliance with the myriad of domestic and international regulations that vessels must comply with before leaving port. ABS presently conducts hull inspections on U.S. ships for the United States Coast Guard. Additionally, ABS conducts Safety Convention radio inspections for many Administrations.

¹⁹ See generally, Section 351 of the Communications Act, 47 U.S.C. § 351, and Regulation 11, Chapter I of the Safety Convention.

²⁰ See Report and Order, PR Docket No. 90-480, 7 FCC Rcd 951 (1992).

²¹ The manual Morse code medium frequency radiotelegraph installation is required by the Communications Act. Most U. S. ships, however, are additionally equipped with satellite equipment, high frequency radiotelephone installations, automated radiotelegraph equipment or a combination of all.

²² Commission inspectors test the output power, frequency tolerance, availability of reserve power and conduct an operational radio check of the radiotelephone installation during the inspection. Any failure of these critical items results in the vessel failing the inspection and not receiving a safety certificate until the failure is corrected.

A. Inquiry.**Present inspection process.**

12. The Commission is faced with a mandate to conserve resources and to provide more efficient and better service to our customers. We believe that one way to accomplish this is to improve the efficiency of our inspection process. The Commission's Compliance and Information Bureau (CIB) has started an initiative to reduce the inspection time spent on large cargo vessels from an average of 6 hours to an average of 3 hours.²³ We believe that we can accomplish this with no reduction in safety. For example, the Communications Act requires ships to carry a medium frequency direction-finder (DF) for navigation and location purposes. All U. S. ships carry either LORAN-C or, more commonly, Global Positioning System (GPS) receivers that are far superior to a direction-finder. Further, the United States Coast Guard intends to discontinue transmitting beacon signals in the medium frequency band that are used by the DF. We intend only to verify that the DF is installed and operational during our inspection and we will not fail a ship, if it is not operational.

13. We are requesting specific comments and suggestions on how we can improve the efficiency of our inspection process. Commenters are not limited to the following questions which are intended primarily to elicit comments. The Commission will consider fully all suggested inspection programs.

- i. Should the Commission use off-air measurements to verify that a required radio installation is operable prior to inspecting the vessel?
- ii. When a ship is equipped with satellite and automated digital data transmitters, is it necessary to conduct an exhaustive test of the manual Morse code installation?
- iii. Would it be beneficial for the Commission to publish a check list of what we are going to examine at an inspection?
- iv. Should we have the ship's master or captain certify that the radio installation is operational and perform only a spot check of the equipment?

Future inspection plans.

14. **GMDSS inspections.** The Commission has recommended that the Communications Act be amended to incorporate the GMDSS and to remove the requirement that large cargo ships and passenger ships carry a manual Morse code radiotelegraph installation.²⁴ Small passenger ships are exempted from the requirement to carry a Morse

code installation because of their small size and limited routes of operation.²⁵ The GMDSS, the result of over 10 years work by the world's maritime nations, is an automated ship-to-shore distress alerting system that relies on satellite and advanced digital terrestrial systems. Inspections of GMDSS equipment will be very different than inspections of medium frequency manual radiotelegraph systems.

15. In addition to our review of how to conduct mandatory ship inspections more efficiently, we are also initiating an examination of how to inspect GMDSS ships more efficiently.²⁶ We are considering several approaches and request specific comments on the following topics and solicit suggestions on approaches that we may not have considered.²⁷

- i. Is there a need to measure frequency tolerance, modulation, and output power for GMDSS equipment?
- ii. Can we use over-the-air measurements in lieu of measurements made at the ship?
- iii. Should inspectors rely on the self-test features of GMDSS equipment, when it is provided?

Private sector inspections.

16. The Commission also recommended that the Communications Act be amended to permit the Commission to use private sector inspectors, prospectively classification societies, to inspect large cargo vessels and small passenger ships.²⁸ The Safety Convention requires an annual inspection of the radio installation but permits administrations to use either inspectors designated for the purpose of conducting inspections or organizations or persons recognized by it.²⁹ Additionally, the Communications Act authorizes the Commission to use other government agencies to conduct inspections on its behalf in territories and remote locations.³⁰ We note that many administrations use classification societies to conduct safety inspections of all types and we believe that the use of a classification society can guarantee safety.

17. The Commission is responsible for inspecting U. S. ships or ensuring that all inspections are sufficient for compliance with the requirements of the Safety Convention. We are, thus, concerned about maritime safety and are requesting specific comments regarding the use of the private sector to conduct inspections on behalf of the Commission if the Communications Act is amended to permit the use of a private sector entity.

- i. Should we only permit the use of a classification society to conduct inspections?

²³ See memo from Ship Committee chairman to all Ship Committee representatives (December 1994).

²⁴ There are no U. S. passenger ships that are required to carry Morse code equipment.

²⁵ See section 352(b)(3) of the Communications Act, 47 U.S.C. 352(b)(3).

²⁶ Because many of the ships the Commission inspects are equipped with satellite and digital data systems and operating under coastwise, domestic exemptions authorized by section 80.836(c) of the Commission's Rules, 47 C.F.R. § 80.836(c), Commission inspectors are familiar with most of the equipment used in the GMDSS.

²⁷ As we discuss in more detail later, the Commission may

permit these inspections to be conducted by private sector entities. Nonetheless, we believe that compiling a public record of inspection techniques and requirements is worthwhile.

²⁸ See ¶ 7, Notice of Proposed Rule Making, CI Docket No. 95-55, ___ FCC Rcd ___ (1995), for more information.

²⁹ Id.

³⁰ The Commission's New York field office, in cooperation with the Wireless Telecommunications Bureau, has authorized the Navy to conduct inspections in Diego Garcia, an archipelago in the Indian Ocean. See section 329 of the Communications Act, 47 U.S.C. 329.

ii. What criteria, if any, should we use to authorize a private sector entity to inspect ships on behalf of the Commission?

iii. Should the Commission be involved in an oversight role in the inspection process?

iv. Should we conduct random inspections?

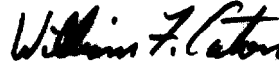
v. To what extent, if any, will privatization affect safety?

vi. Anecdotally, large shipping companies have indicated that the cost of an FCC inspection is trivial compared to the cost of operating a large cargo ship. Most small passenger vessels are, however, owned and operated by small businesses. What are the economic benefits or costs that will affect these small businesses if we privatize ship inspections? For example, do we limit the amount that can be charged for an inspection to the amount that the Commission charges? What are the costs associated with delays in obtaining an inspection?

21. This is a non-restricted notice and comment rule making proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in Commission rules. See generally 47 C.F.R. §§ 1.1202, 1.1203, and 1.206(a).

22. For further information, contact George R. Dillon, Compliance and Information Bureau, Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554; telephone 202-418-1100.

FEDERAL COMMUNICATIONS COMMISSION



William F. Caton
Acting Secretary

IV. CONCLUSION

18. We believe in the principle that government should be responsive to user needs and began this proceeding to promote flexibility, to improve our inspection process by removing unnecessary and inimical policies and, most importantly, provide better service to the public. In summary, we believe that it is both necessary and timely to commence a thorough review of the policies, rules and procedures that the Commission uses to regulate the inspection of compulsorily equipped ships. The primary purpose of this Notice is to compile a complete record that will 1) allow us to improve current inspection processes, 2) develop a technically sufficient regulatory environment for the inspection of ships subject to the GMDSS, and 3) provide an overall strategy on how to best utilize private sector entities to inspect compulsory ship stations.

V. PROCEDURAL MATTERS

INITIAL REGULATORY FLEXIBILITY ANALYSIS

19. An Initial Regulatory Flexibility Analysis is not required.

20. Accordingly, we adopt this Notice under the authority contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i) and 303(r). Pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's Rules, 47 C.F.R. Sections 1.415 and 1.419, interested persons may file comments on or before **July 18, 1995** and may file reply comments on or before **August 17, 1995**. To file formally in this proceeding, you must file an original and four copies of all comments, reply comments, and supporting comments. If you want each Commissioner to receive a personal copy of your comments, you should file an original and nine copies. You should send your comments and reply comments to Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the Reference Center of the Federal Communications Commission (Room 239), 1919 M Street, N.W., Washington, D.C. 20554.